

**UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
GREENSBORO DIVISION**

IN RE:)	
)	
ERIC ROBERT TREATON and)	Case No. B-03-13043C-7G
CHERI ANNE TREATON,)	
)	
)	
Debtors.)	

ORDER ALLOWING TRUSTEE'S OBJECTIONS TO CLAIMS #4, 5 AND 8

THIS MATTER coming before the undersigned United States Bankruptcy Judge of the United States Bankruptcy Court for the Middle District of North Carolina upon the Trustee's Objections to Allowance of Claims #4, 5 and 8 filed June 15, 2004 and, for good cause shown, the Court makes the following Findings of Facts:

1. The Debtor filed a voluntary petition under Title 11, Chapter 7 of the United States Code on March 26, 2003 and, as a result of such filing, Charles M. Ivey, III, is now the duly appointed, qualified and acting trustee in that proceeding.

2. On June 15, 2004, the Trustee filed an Objection to the Allowance of Claim No. 4 filed by Aldo DiPuorto and Salvatore Looz as an unsecured claim in the amount of \$24,000 upon the grounds that the Claimants agreed to waive any and all claims of lien against the Debtor and the Debtor's estate pursuant to a Consent Order Approving Application of Compromise entered September 11, 2003. The claim should be denied in full.

3. On June 15, 2004, the Trustee filed an Objection to the Allowance of Claim No. 5 filed by Randolph County Tax Collector as a priority tax claim in the amount of \$63.51 upon the grounds that the claim represents taxes due on a 1998 Dodge Durango. The funds held by the Trustee do not represent any funds received from the liquidation of such personal property, and it does not appear the vehicle is property of the estate. The claim should be denied in full.

4. On June 15, 2004, the Trustee filed an Objection to the Allowance of Claim No. 8 filed by MBNA America as an unsecured claim in the amount of \$5,271.82 upon the grounds that the claim was filed after the bar date for filing claims set by the Notice from the Clerk's Office to claimants had expired. The claim should be treated as a tardily filed claim for the purpose of distribution pursuant to 11 U.S.C. § 726(a)(3).

3. Notice of the Trustee's Objections to Claims dated June 15, 2004 was duly mailed to all parties in interest by the Trustee, notifying said creditors that responses should be filed with the Court on or before July 21, 2004 and setting a hearing date of July 27, 2004 in the event responses were filed. None of the claimants filed a response with the Court to the Objections filed by the Trustee, and good cause appears to exist to sustain the Objections as filed by the Trustee.

BASED UPON THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW,

IT IS ORDERED, ADJUDGED and DECREED that:

1. The Trustee's Objection to Allowance of Claim No.4 shall be and hereby is sustained, and Claim No. 4 filed by Aldo DiPuorto and Salvatore Looz as an unsecured claim in the amount of \$24,000 is denied in full.

2. The Trustee's Objection to Allowance of Claim No.5 shall be and hereby is sustained, and Claim No. 5 filed by Randolph County Tax Collector as a priority tax claim in the amount of \$63.51 is denied in full for the purpose of distribution.

3. The Trustee's Objection to Allowance of Claim No.8 shall be and hereby is sustained, and Claim No. 8 filed by MBNA America as an unsecured claim in the amount of \$5,271.82 shall be treated as a tardily filed unsecured claim for the purpose of distribution pursuant to 11 U.S.C. §726(a)(3).

PARTIES TO BE SERVED

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